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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,536	12/28/2005	Arthur Putzer	AT030038	5903
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EXAMINER				
LEE, LAURA MICHELLE				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,536

Applicant(s)

PUTZER, ARTHUR

Examiner

LAURA M. LEE

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

1. This office action is in response to the amendment filed on 9/24/2009, in which claims 1-10 are pending, claims 8-10 are new, and claims 1, 4 and 7 are currently amended.

Claim Objections

2. Claims 9 and 10 are objected to because of the following informalities:

Claims 9 and 10 are missing claim dependencies. However, from the claim language, it has been presumed that claim 9 is dependent upon claim 8, and claim 10 is dependent upon claim 9. The claims have been examined under this assumption.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 was amended to include that the "pivot axis is arranged offset to a side of the shaving head away from a central longitudinal axis of the shaving head."

However, claim 4 also recites that "the pivot axis is arranged offset with respect to a

depth axis in the first side direction..." Claim 2 also recites the limitations of a depth axis. It appears that applicant does not have support for both a central axis and a depth axis of which the pivot axis is arranged offset from and appears that claim 4 is a duplication of the amendments of claim 1. It appears that both the central longitudinal axis and the depth axis are the same axis.

Claim 9 recites, that the "the drive lever having a free end extending into the shaving head for driving cutters of the shaving head, wherein the free end is tilted relative to the drive lever." As the free end is a part of the drive lever, the claim is currently stating that the free end is tilted at an angle to itself?? It appears that applicant meant that would be more accurate to state that the free end is tilted relative to another feature of the drive lever.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ullmann (U.S. Patent 6,505,404). Ullmann discloses a shaving apparatus (HSM; i.e. Figs 11-12), comprising a base part (housing, 1) for being held in one hand and has a top end and a bottom end, and comprising a shaving head (clipper head, S) being mounted on the base part (1) in the region of the top end of the base part and has a

short hair cutting device (cutting teeth 40/4; capable of cutting long or short hair) and a long hair cutting device (cutting teeth 41/4; capable of cutting long or short hair), the long hair cutting device being arranged next to the short hair cutting device in a first side direction of the shaving head, and wherein the short hair cutting device has short hair cutting parts (cutting teeth 40/4) which interact with one another, and wherein the long hair cutting device is formed by a toothed cutting device which has two rows of cutting teeth (41/4) lying next to one another in a longitudinal direction of the rows, and wherein the shaving head (S) is pivotable mounted (pivot axis Z; figs 11-12) with respect to the base part (1), namely about a pivot axis (Z) running parallel to the longitudinal direction of the rows, and wherein the pivot axis is arranged offset to a side of the shaving head away from a central longitudinal axis of the shaving head (as shown in Fig. 11-12, the pivot axis z is offset relative to the longitudinal or central axis of the shaving head) and towards the base part with respect to the short hair cutting parts (the axis is beneath the cutting teeth best shown in Figures 11-12) and the rows of cutting teeth in a depth direction (substantially center along the radial direction) of the shaving head, wherein spring means (i.e. 28 and 29) are provided which spring means spring load the shaving head essentially counter to the depth direction away from the base part and towards a rest position of the shaving head (spring elements 28/29 load the shaving head in a direction perpendicular to the depth direction; perpendicular constitutes a counter direction).

In regards to claim 2, as best understood, Ullmann discloses wherein the base part (1) has a longitudinal axis (about the length of the housing) running between its

bottom end and its top end, and wherein the shaving head has a depth axis (central longitudinal axis) running parallel to the depth direction, and wherein the longitudinal axis of the base part (1) and the depth axis of the shaving head (S) enclose an angle of inclination with one another, said angle being smaller than 180 degrees (see one of Figures 6-7 or 11-12; the axis are not aligned).

In regards to claim 4, as best understood Ullmann discloses that the pivot axis (z) is arranged offset with respect to the depth axis (longitudinal axis) in the first side direction, the depth axis running parallel to the depth direction as shown in Figs 6-7 and 11-12, the pivot axis z is offset relative to the longitudinal or central axis of the shaving head.

In regards to claim 8, Ullmann discloses a shaving apparatus (figs. 11-12) comprising: a base (1); and a shaving head (S) mounted on the base, the shaving head having a central longitudinal axis (center axis of shaving head) along a center of the shaving head in a longitudinal direction of the shaving head (as shown in Fig. 11-12, the pivot axis z is offset relative to the longitudinal or central axis of the shaving head); wherein the shaving head is pivotally mounted (z) with respect to the base (1) about a pivot axis (z), the pivot axis being parallel to the central longitudinal axis of the shaving head at a side of the shaving head away from the central longitudinal axis.

8. Claims 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Atsumi et al. (U.S. Patent 5,313,704), herein referred to as Atsumi.

In regards to claim 8, Atsumi discloses a shaving apparatus (fig 1) comprising: a base (1); and a shaving head (2) mounted on the base, the shaving head having a central longitudinal axis (axis running the central width of the shaving head) along a center of the shaving head in a longitudinal direction of the shaving head; wherein the shaving head is pivotally mounted with respect to the base (1) about a pivot axis (h), the pivot axis being parallel to the central longitudinal axis of the shaving head at a side of the shaving head away from the central longitudinal axis (h is beneath the central axis).

In regards to claim 9, Atsumi discloses a drive lever extending from the base toward the shaving head, the drive lever (fig. 4, 17-19) having a free end (19; as free as applicant's) extending into the shaving head for driving cutters of the shaving head, wherein the free end is tilted relative the drive lever by an inclination angle (see fig. 4c).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3 and 7 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ullmann (U.S. Patent 6,505,404). Ullmann does not positively disclose the exact angle of inclination between the depth axis of the shaving head and the longitudinal axis of the base part as shown in the

drawings; see especially Figures 6-7. However, from the interaction of the detent stops 90-93, the shaving head appears to form an angle with the horizontal such that from the drawings Ullmann shows that the interior angle between the depth and longitudinal axis is approximately 45-degrees. The supplementary angle (180- angle) or angle of inclination is therefore about 135 degrees. Ullmann therefore discloses that the angle is well within the disclosed range of 120-140-degrees and is also considered about 130-degrees. To the extent that it can be argued that the drawings are not to scale and therefore Ullmann does not disclose the claimed range of 120-140 degrees and also preferably that the angle is 130 degrees, it is further noted that Ullmann also discloses that it is desirable to maintain the shaving head in various operating positions, and particularly at an optimal angle of application to the skin. As both the purpose of the applicant's claimed angle and the angle as shown by Ullmann is to provide an optimum position of the blade relative to the user's skin and as Ullmann already appears to disclose the claimed angle, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Ullmann blade at an angle of about 130 degrees (if not already) as a matter of design choice to determine and accommodate the best optimal angle for use of the shaver with the user's face since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ullmann (U.S. Patent 6,505,404) in view of Wetzel et al. (U.S. Patent 6098,289), herein referred to as Wetzel. Ullmann does not disclose wherein a second toothed cutting device is provided, and wherein the short-hair cutting device is arranged between the two toothed cutting devices. However, attention is directed to the Wetzel reference that discloses a dry shaving apparatus with three cutting zones (13, 14 and 15). Wetzel discloses a means for pivoting the shaving head that holds all three cutting features. It would have been obvious to one having ordinary skill in the art to have either replaced the Ullman shaving head with a shaving head as shown by Wetzel or to have incorporated the angled stop positions as taught by Ullman on the Wetzel shaver as each teaches a variation of a pivoting shaving head that would benefit from a limit stop to limit the pivoting movement of the shaving head to position the shaving head at the desired user angle.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ullmann (U.S. Patent 6,505,404) in view of Beutel (U.S. Publication 2002/0000043). Ullmann discloses the claimed invention including that the spring means (28/29) is concentric to the pivot axis (Z) but does not disclose that the spring means is a wire spring which has a multiple wound middle section and two leg sections. However, springs such as coil and leaf springs are recognized within the art as equivalent mechanical structures each designed to create a positive or negative biasing force against an object. Attention is further directed to the Beutel shaving device, which discloses the use of a coil spring

(spring element 107) in the locking device 10 for a similar purpose of providing a biasing force against the locking mechanism to keep the lock in place. As leaf and coil springs are art recognized equitant structures and as Beutel discloses similar use of a coil spring, it would have been obvious to one having ordinary skill in the art to have substituted the leaf spring of Ullmann for a coil spring having a wound middle section and two leg sections (ends) as taught by Beutel as each spring would have performed the desired biasing function equally well and would not have modified the operation or intent of the spring means to hold the shaving head in the secured position.

13. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Atsumi et al. (U.S. Patent 5,313,704), herein referred to as Atsumi. Atsumi discloses the claimed invention except that the inclination angle is between 120 and 140 degrees. However, as Atsumi discloses that the pivoting of the shaving head is so that during its movement over the skin the shaving head can readily follow the contour of the skin, it would be obvious to allow the shaving head to have a full range of motion. It is noted that even a 45-degree pivot of the shaving head would provide for a 135 degree supplemental angle that is well within the disclosed range of 120-140-degrees. As it is desirable to maintain the shaving head in various operating positions, and particularly at an optimal angle of application to the skin and as both the purpose of the applicant's claimed angle and the angle as shown by Atsumi is to provide an optimum position of the blade relative to the user's skin, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Atsumi blade at

an angle of about 130 degrees (if not already) as a matter of design choice to determine and accommodate the best optimal angle for use of the shaver with the user's face since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Response to Arguments

14. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA M. LEE whose telephone number is (571)272-8339. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura M Lee/
Examiner, Art Unit 3724
6/15/2010